Attorney Docket No.: **DEX-0146**
Inventors: **Yang et al.**
Serial No.: **09/762,028**
Filing Date: **May 10, 2001**
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REMARKS

Claims 1-11 are pending in the instant application. Claim 7 has been amended herein. Support for amendments to claim 7 can be found in the specification at page 3, lines 18-26, page 7, lines 14-22, and page 11, lines 14-18. Thus, no new matter is added by this amendment and entry is respectfully requested.

Claims 1-11 have been subjected to a Restriction Requirement as follows:

Group I, claim 1-6, drawn to methods of diagnosing lung cancer by detecting LSG nucleic acids;

Group II, claims 1-6, drawn to methods of diagnosing lung cancer by detecting LSG proteins;

Group III, claim 7, drawn to an antibody against a LSG nucleic acid;

Group IV, claim 7 drawn to an antibody against a LSG protein;

Group V, claims 8 and 9, drawn to methods of imaging using an antibody to a LSG nucleic acid;

Group VI, claims 8 and 9, drawn to methods of imaging using an antibody to a LSG protein;

Group VII, claims 10 and 11, drawn to methods of treatment with antibodies to LSG nucleic acids; and

Group VIII, claims 10 and 11, drawn to methods of treatment with antibodies to LSG proteins.

The Examiner suggests that Groups I-VII do not relate to a single general inventive concept under PCT 13.1 because under PCT Rule 13.2, they lack the same or corresponding special technical feature.

Further, the Examiner suggest that each of the above Groups reads on patentably distinct inventions drawn to multiple SEQ ID NOs. Accordingly, the Examiner has requested Applicants to elect a single LSG sequence as well selected from the group consisting of SEQ ID NO:1-5.

Applicants respectfully traverse this restriction requirement and sequence election requirement.

At the outset, it is respectfully pointed out that the Examiner's suggestion that "the inventions listed as Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature" contradicts both the Search Report and the Written Opinion issued by this same Examiner in the PCT application of which this case is the U.S. National Stage.

Further, MPEP §803 provides two criteria which must be met for

a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of the prior art relating to claims 1-5 herein has already been performed by this Examiner in the PCT application. Thus, there should be no serious burden placed upon the Examiner by including claims 6-11 in the instant case as well.

In addition, a search of prior art relating to an elected nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. For example, a search of an antibody would als reveal art teaching use of that antibody in imaging and treatment. Accordingly, Applicants believe that searching of all the claims, at least when limited to an elected nucleic acid, polypeptide or antibody is overlapping and would not place an undue burden on the Examiner if the Restriction were not made.

Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, nor do the claims lack unity in accordance with PCT Rule 13.1 and 13.2, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

With respect to the election of a single sequence, MPEP §

803.04 clearly states that a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application. Clearly five sequences constitutes a reasonable number and division into five separate applications should not be required. Accordingly, reconsideration and withdrawal of this sequence election requirement is also respectfully requested.

However, in an earnest effort to advance the prosecution of this case, Applicants elect to prosecute Group IV, claim 7, drawn to an antibody against an LSG protein with traverse. Further, Applicants elect the LSG sequence of SEQ ID NO:5, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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Date: July 11, 2003

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